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**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

MICHELLE E. MICHAEL
9830 Dale Avenue, #127
San Diego, CA 91977

Pharmacy Technician License No. TCH
34083

Respondent.

Case No. 7232

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about May 5, 2022, Complainant Anne Sodergren, in her official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, filed Accusation No. 7232 against Michelle E. Michael (Respondent) before the Board. (Accusation attached as Exhibit A.)

2. On or about July 31, 2000, the Board issued Pharmacy Technician License No. TCH 34083 to Respondent. The Pharmacy Technician License expired on December 31, 2021, and has not been renewed.

3. On or about May 16, 2022, Respondent was served by Certified and First Class Mail copies of the Accusation No. 7232, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at

1 Respondent's address of record which, pursuant to Business and Professions Code section 4100,
2 is required to be reported and maintained with the Board. Respondent's address of record was
3 and is: 9830 Dale Avenue, #127, San Diego, California 91977. On June 6, 2022, the Accusation
4 packet was returned with "Not Deliverable as Addressed"- "Unable to Forward."

5 4. On or about June 10, 2022, Respondent was served all of the same documents
6 outlined in the preceding paragraph at the following address which was: 9830 Dale Avenue, #137
7 San Diego, California 91977. On July 5, 2022, the Accusation packet was returned with "Not
8 Deliverable as Addressed"- "Unable to Forward."

9 5. Service of the Accusation was effective as a matter of law under the provisions of
10 Government Code section 11505, subdivision (c) and/or Business and Professions Code section
11 124.

12 6. Government Code section 11506, subdivision (c) states, in pertinent part:

13 The respondent shall be entitled to a hearing on the merits if the respondent
14 files a notice of defense . . . and the notice shall be deemed a specific denial of all
15 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense
16 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its
17 discretion may nevertheless grant a hearing.

18 7. The Board takes official notice of its records and the fact that Respondent failed to
19 file a Notice of Defense within 15 days after service upon her of the Accusation, and therefore
20 waived her right to a hearing on the merits of Accusation No. 7232.

21 8. California Government Code section 11520, subdivision (a) states, in pertinent part:

22 If the respondent either fails to file a notice of defense . . . or to appear at the
23 hearing, the agency may take action based upon the respondent's express admissions
24 or upon other evidence and affidavits may be used as evidence without any notice to
25 respondent

26 9. Pursuant to its authority under Government Code section 11520, the Board finds
27 Respondent is in default. The Board will take action without further hearing and, based on the
28 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
finds that the charges and allegations in Accusation No. 7232, are separately and severally, found
to be true and correct by clear and convincing evidence.

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Exhibit A

Accusation

1 ROB BONTA
Attorney General of California
2 ERIN M. SUNSERI
Supervising Deputy Attorney General
3 AMIE J. FLYNN
Deputy Attorney General
4 State Bar No. 149600
600 West Broadway, Suite 1800
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P.O. Box 85266
6 San Diego, CA 92186-5266
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7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
10 **BOARD OF PHARMACY**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 7232

14 **MICHELLE E. MICHAEL**
15 **9830 Dale Avenue, #127**
San Diego, CA 91977

ACCUSATION

16 **Pharmacy Technician License No. TCH**
17 **34083**

Respondent.

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20 **PARTIES**

21 1. Anne Sodergren (Complainant) brings this Accusation solely in her official capacity
22 as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.

23 2. On or about July 31, 2000, the Board issued Pharmacy Technician License No. TCH
24 34083 to Michelle E. Michael (Respondent). The Pharmacy Technician License expired on
25 December 31, 2021, and has not been renewed.

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JURISDICTION

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2 3. This Accusation is brought before the Board under the authority of the following
3 laws. All section references are to the Business and Professions Code (Code) unless otherwise
4 indicated.

5 4. Code section 4300 states, in pertinent part:

6 (a) Every license issued may be suspended or revoked.

7 (b) The board shall discipline the holder of any license issued by the board, whose
8 default has been entered or whose case has been heard by the board and found guilty,
9 by any of the following methods:

10 (1) Suspending judgment.

11 (2) Placing him or her upon probation.

12 (3) Suspending his or her right to practice for a period not exceeding one year.

13 (4) Revoking his or her license.

14 (5) Taking any other action in relation to disciplining him or her as the board in
15 its discretion may deem proper.

16 ...

17 (e) The proceedings under this article shall be conducted in accordance with Chapter
18 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code,
19 and the board shall have all the powers granted therein. The action shall be final,
20 except that the propriety of the action is subject to review by the superior court
21 pursuant to Section 1094.5 of the Code of Civil Procedure.

22 5. Code section 4300.1 states:

23 The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation
24 of law or by order or decision of the board or a court of law, the placement of a license on a
25 retired status, or the voluntary surrender of a license by a licensee shall not deprive the
26 board of jurisdiction to commence or proceed with any investigation of, or action or
27 disciplinary proceeding against, the licensee or to render a decision suspending or revoking
28 the license.

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1 **STATUTORY PROVISIONS**

2 6. Section 4301 of the Code states:

3 The board shall take action against any holder of a license who is guilty of
4 unprofessional conduct or whose license has been issued by mistake. Unprofessional
conduct shall include, but is not limited to, any of the following:

5 . . .

6 (h) The administering to oneself, of any controlled substance, or the use of any
7 dangerous drug or of alcoholic beverages to the extent or in a manner as to be
8 dangerous or injurious to oneself, to a person holding a license under this chapter, or
to any other person or to the public, or to the extent that the use impairs the ability of
the person to conduct with safety to the public the practice authorized by the license.

9 . . .

10 7. Section 4327 of the Code states that any person who, while on duty, sells, dispenses
11 or compounds any drug while under the influence of any dangerous drug or alcoholic beverages
12 shall be guilty of a misdemeanor.

13 **COST RECOVERY**

14 8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
15 administrative law judge to direct a licensee found to have committed a violation or violations of
16 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
17 enforcement of the case, with failure of the licensee to comply subjecting the license to not being
18 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
19 included in a stipulated settlement.

20 **DEFINITIONS**

21 9. **Chlordiazepoxide**, also known as Librium, is a drug that is used to treat anxiety and
22 acute alcohol withdrawal symptoms. Nordiazepam is an active metabolite of diazepam and
23 Chlordiazepoxide. Chlordiazepoxide is a Schedule IV controlled substance per Health & Safety
24 Code section 11057(d)(5) and considered a dangerous drug per Code section 4022.

25 10. **Fioricet** is a combination medication comprised of acetaminophen, butalbital, and
26 caffeine. It is used to treat tension headaches. Fioricet is a considered a dangerous drug per Code
27 section 4022.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Pharmacy Technician License No. TCH 34083 issued to Michelle E. Michael;
2. Ordering Michelle E. Michael to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: 5/5/2022

Signature on File

ANNE SODERGREN
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

SD2022800063
Accusation ADA Compliant Format.docx